

AMENDED IN SENATE MARCH 31, 2009

SENATE BILL

No. 273

Introduced by Senator Corbett

February 24, 2009

An act to amend Sections 124250 and 124251 of the Health and Safety Code, and to amend Section 13823.15 of the Penal Code, relating to domestic violence.

LEGISLATIVE COUNSEL'S DIGEST

SB 273, as amended, Corbett. Domestic violence.

Existing law requires the Maternal and Child Health Branch of the State Department of Public Health to administer a comprehensive shelter-based service grant program to battered women's shelters. *Existing law also requires the Office of Emergency Services to conduct a statewide domestic violence program to provide assistance to victims of domestic violence in unserved and underserved areas. Both of these programs define "domestic violence" to mean the infliction or threat of physical harm against past or present adult or adolescent female intimate partners, and shall include physical, sexual, and psychological abuse against the woman, and is a part of a pattern of assaultive, coercive, and controlling behaviors directed at achieving compliance from, or control over, that woman.*

This bill would change the definition of domestic violence under both of the above programs to mean the infliction or threat of physical harm against past or present adult or adolescent intimate partners, to include physical, sexual, and psychological abuse against the partner, that is a part of a pattern of assaultive, coercive, and controlling behaviors directed at achieving compliance from, or control over, that partner.

The bill would also make the department's comprehensive shelter-based service grant program subject to specified antidiscrimination provisions.

~~This bill would declare the intent of the Legislature to enact legislation that would address issues raised in a specified decision by the appellate court and that would ensure that shelters providing services to victims of domestic violence continue to receive appropriate funding pursuant to provisions of the above-described grant program.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. The Legislature finds and declares all of the*
2 *following:*

3 *(a) In 1994, the Legislature enacted the Battered Women*
4 *Protection Act (BWPA) providing for a comprehensive*
5 *shelter-based services program for battered women and children.*
6 *Passage of the BWPA was a recognition of the serious magnitude*
7 *of domestic violence and the need to provide funding to increase*
8 *protection for female victims and their children.*

9 *(b) Despite efforts by the state to address the problem of*
10 *domestic violence, it remains an issue of serious public concern*
11 *and growing magnitude. Women, in particular, continue to be*
12 *victims of domestic violence at a disproportionate rate.*

13 *(c) In 2006, there were 86 domestic homicides by a spouse or*
14 *common law partner. The victims included 69 females and 17*
15 *males.*

16 *(d) In 2007, there were 119 murders committed in California*
17 *as the result of intimate partner violence. The victims included*
18 *101 females and 18 males who were killed by their partners.*

19 *(e) As of April 2008, there were 246,444 domestic*
20 *violence-related orders on file with the Department of Justice,*
21 *including emergency protective orders, temporary restraining*
22 *orders, orders after hearing, other domestic violence orders, and*
23 *criminal protective orders.*

24 *(f) The National Crime Victimization Survey found that women*
25 *are six times more likely than men to experience violence at the*
26 *hands of an intimate partner.*

27 *(g) Many economic risks associated with domestic violence also*
28 *disproportionately affect abused women, including homelessness,*

1 *income decline upon separation, and financial dependency on*
2 *partners.*

3 *(h) In providing and funding comprehensive shelter-based*
4 *services to all victims of domestic violence, the state has a*
5 *compelling interest in acknowledging the quantitative difference*
6 *in the number of male and female victims, as well as the qualitative*
7 *differences in the nature of the violence experienced by male and*
8 *female victims so that resources may be properly allocated.*

9 *(i) It is the intent of the Legislature that the State Department*
10 *of Public Health have as purposes and goals that all victims of*
11 *domestic violence served by the department's Maternal and Child*
12 *Health Branch receive comprehensive, quality services and that*
13 *resources are distributed to where there is the most need.*

14 *SEC. 2. Section 124250 of the Health and Safety Code is*
15 *amended to read:*

16 124250. (a) The following definitions shall apply for purposes
17 of this section:

18 (1) "Domestic violence" means the infliction or threat of
19 physical harm against past or present adult or adolescent ~~female~~
20 intimate partners, and shall include physical, sexual, and
21 psychological abuse against the ~~woman~~ partner, and is a part of a
22 pattern of assaultive, coercive, and controlling behaviors directed
23 at achieving compliance from or control over, that ~~woman~~ partner.

24 (2) "Shelter-based" means an established system of services
25 where ~~battered women~~ victims of domestic violence and their
26 children may be provided safe or confidential emergency housing
27 on a 24-hour basis, including, but not limited to, hotel or motel
28 arrangements, haven, and safe houses.

29 (3) "Emergency shelter" means a confidential or safe location
30 that provides emergency housing on a 24-hour basis for ~~battered~~
31 ~~women~~ victims of domestic violence and their children.

32 (b) The Maternal and Child Health Branch of the State
33 Department of Public Health shall administer a comprehensive
34 shelter-based services grant program to battered women's shelters
35 pursuant to this section. *This program shall comport with the*
36 *requirements of Section 11135 of the Government Code.*

37 (c) The Maternal and Child Health Branch shall administer
38 grants, awarded as the result of a request for application process,
39 to battered women's shelters that propose to maintain shelters or
40 services previously granted funding pursuant to this section, to

1 expand existing services or create new services, and to establish
2 new battered women's shelters to provide services, in any of the
3 following four areas:

4 (1) Emergency shelter ~~to women and their children escaping~~
5 ~~violent family situations.~~

6 (2) Transitional housing programs ~~to help women and their~~
7 ~~children find housing and jobs so that they are not forced to choose~~
8 ~~between returning to a violent relationship or becoming homeless.~~

9 The programs may offer up to 18 months of housing, case
10 management, job training and placement, counseling, support
11 groups, and classes in parenting and family budgeting.

12 (3) Legal and other types of advocacy and representation ~~to help~~
13 ~~women and their children pursue the appropriate legal options.~~

14 (4) Other support services ~~for battered women and their children.~~

15 (d) (1) The Maternal and Child Health Branch ~~of the State~~
16 ~~Department of Public Health~~ shall conduct a minimum of one site
17 visit per grant term to each agency funded to provide shelter-based
18 ~~services to battered women and their children.~~ The purpose of the
19 site visit shall be a performance assessment of, and technical
20 assistance for, each agency visited. The performance assessment
21 shall include, but need not be limited to, a review of all of the
22 following:

23 (A) Progress in meeting program goals and objectives.

24 (B) Agency organization and facilities.

25 (C) Personnel policies, files, and training.

26 (D) Recordkeeping, budgeting, and expenditures.

27 (E) Documentation, data collection, and client confidentiality.

28 (2) Subsequent to each site visit conducted under paragraph (1),
29 the Maternal and Child Health Branch shall provide a written report
30 to the agency summarizing the agency's performance, ~~any~~
31 ~~deficiencies noted, and any corrective action needed.~~

32 (3) If an agency receives funding from both the Maternal and
33 ~~Child Health Branch of the State Department of Public Health~~ and
34 the Domestic Violence Program in the Office of Emergency
35 Services during any grant cycle, the Maternal and Child Health
36 Branch and the Comprehensive Statewide Domestic Violence
37 Program shall, to the extent feasible, coordinate agency site visits
38 and share performance assessment data with the goal of improving
39 efficiency, eliminating duplication, and reducing administrative
40 costs.

1 (e) In implementing the grant program pursuant to this section,
2 ~~the State Department of Public Health~~ *department* shall consult
3 with an advisory council that shall remain in existence until January
4 1, 2010. The council shall be composed of not to exceed 13 voting
5 members and two nonvoting ex officio members appointed as
6 follows:

- 7 (1) Seven members appointed by the Governor.
8 (2) Three members appointed by the Speaker of the Assembly.
9 (3) Three members appointed by the Senate Committee on
10 Rules.
11 (4) Two nonvoting ex officio members who shall be Members
12 of the Legislature, one appointed by the Speaker of the Assembly
13 and one appointed by the Senate Committee on Rules. Any
14 Member of the Legislature appointed to the council shall meet
15 with, and participate in the activities of, the council to the extent
16 that participation is not incompatible with his or her position as a
17 Member of the Legislature.

18 The membership of the council shall consist of domestic violence
19 advocates, battered women service providers, and representatives
20 of women's organizations, law enforcement, and other groups
21 involved with domestic violence, and at least one representative
22 of service providers serving the lesbian, gay, bisexual, and
23 transgender community for purposes of domestic violence. At least
24 one-half of the council membership shall consist of domestic
25 violence advocates or battered women service providers from
26 organizations such as the California Partnership to End Domestic
27 Violence.

28 It is the intent of the Legislature that the council membership
29 reflect the ethnic, racial, cultural, and geographic diversity of the
30 state.

31 (f) The department shall collaborate closely with the council in
32 the development of funding priorities, the framing of the Request
33 for Proposals, and the solicitation of proposals.

34 (g) (1) ~~The Maternal and Child Health Branch of the State~~
35 ~~Department of Public Health~~ shall administer grants, awarded as
36 the result of a request for application process, to agencies to
37 conduct demonstration projects to serve ~~battered women and their~~
38 ~~children~~ *victims of domestic violence*, including, but not limited
39 to, creative and innovative service approaches, such as community
40 response teams and pilot projects to develop new interventions

1 emphasizing prevention and education, and other support projects
2 identified by the advisory council.

3 (2) For purposes of this subdivision, “agency” means a state
4 agency, a local government, a community-based organization, or
5 a nonprofit organization.

6 (h) It is the intent of the Legislature that services funded by this
7 program include services for ~~battered women~~ *victims of domestic*
8 *violence* in underserved communities, including the lesbian, gay,
9 bisexual, and transgender community, and ethnic and racial
10 communities. Therefore, the Maternal and Child Health Branch
11 ~~of the State Department of Public Health~~ shall do all of the
12 following:

13 (1) Fund shelters pursuant to this section that reflect the ethnic,
14 racial, economic, cultural, and geographic diversity of the state.

15 (2) Target geographic areas and ethnic and racial communities
16 of the state whereby, based on a needs assessment, it is determined
17 that no shelter-based services for battered women exist or that
18 additional resources are necessary.

19 (i) The director may award additional grants to shelter-based
20 agencies when it is determined that there exists a critical need for
21 shelter or shelter-based services.

22 (j) As a condition of receiving funding pursuant to this section,
23 battered women’s shelters shall do ~~all~~ *both* of the following:

24 (1) Provide matching funds or in-kind contributions equivalent
25 to not less than 20 percent of the grant they would receive. The
26 matching funds or in-kind contributions may come from other
27 governmental or private sources.

28 (2) Ensure that appropriate staff and volunteers having client
29 contact meet the definition of “domestic violence counselor” as
30 specified in subdivision (a) of Section 1037.1 of the Evidence
31 Code. The minimum training specified in paragraph (2) of
32 subdivision (a) of Section 1037.1 of the Evidence Code shall be
33 provided to those staff and volunteers who do not meet the
34 requirements of paragraph (1) of subdivision (a) of Section 1037.1
35 of the Evidence Code.

36 *SEC. 3. Section 124251 of the Health and Safety Code is*
37 *amended to read:*

38 124251. (a) The Maternal and Child Health Branch of the
39 State Department of *Public Health Services* shall fund, through a
40 competitive selection process determined by the director, at least

1 one agency to provide expert technical assistance and training on
2 domestic violence issues and building agency capacity in order to
3 obtain other funding for services for ~~battered women and their~~
4 ~~children~~ *victims of domestic violence*, including, but not limited
5 to, grant writing and building coalitions.

6 (b) The Maternal and Child Health Branch ~~of the State~~
7 ~~Department of Health Services~~ shall fund at least one agency to
8 conduct a statewide evaluation of the services funded through
9 Section 124250.

10 (c) For purposes of subdivision (a), “agency” means a state
11 agency, local government, a community-based organization, or a
12 nonprofit agency.

13 (d) Contracts awarded pursuant to this section are exempt from
14 the competitive bidding requirements of the Public Contract Code.

15 *SEC. 4. Section 13823.15 of the Penal Code is amended to*
16 *read:*

17 13823.15. (a) The Legislature finds the problem of domestic
18 violence to be of serious and increasing magnitude. The Legislature
19 also finds that existing domestic violence services are underfunded
20 and that some areas of the state are unserved or underserved.
21 Therefore, it is the intent of the Legislature that a goal or purpose
22 of the Office of Emergency Services (OES) shall be to ensure that
23 all victims of domestic violence served by the OES Comprehensive
24 Statewide Domestic Violence Program receive comprehensive,
25 quality services.

26 (b) There is in the OES a Comprehensive Statewide Domestic
27 Violence Program. The goals of the program shall be to provide
28 local assistance to existing service providers, to maintain and
29 expand services based on a demonstrated need, and to establish a
30 targeted or directed program for the development and establishment
31 of domestic violence services in currently unserved and
32 underserved areas. The OES shall provide financial and technical
33 assistance to local domestic violence centers in implementing all
34 of the following services:

- 35 (1) Twenty-four-hour crisis hotlines.
- 36 (2) Counseling.
- 37 (3) Business centers.
- 38 (4) Emergency “safe” homes or shelters for victims and families.
- 39 (5) Emergency food and clothing.
- 40 (6) Emergency response to calls from law enforcement.

- 1 (7) Hospital emergency room protocol and assistance.
- 2 (8) Emergency transportation.
- 3 (9) Supportive peer counseling.
- 4 (10) Counseling for children.
- 5 (11) Court and social service advocacy.
- 6 (12) Legal assistance with temporary restraining orders, devices,
- 7 and custody disputes.
- 8 (13) Community resource and referral.
- 9 (14) Household establishment assistance.

10 Priority for financial and technical assistance shall be given to
11 emergency shelter programs and “safe” homes for victims of
12 domestic violence and their children.

13 (c) Except as provided in subdivision (f), the OES and the
14 advisory committee established pursuant to Section 13823.16 shall
15 collaboratively administer the Comprehensive Statewide Domestic
16 Violence Program, and shall allocate funds to local centers meeting
17 the criteria for funding. All organizations funded pursuant to this
18 section shall utilize volunteers to the greatest extent possible.

19 The centers may seek, receive, and make use of any funds which
20 may be available from all public and private sources to augment
21 any state funds received pursuant to this section.

22 Centers receiving funding shall provide cash or an in-kind match
23 of at least 10 percent of the funds received pursuant to this section.

24 (d) The OES shall conduct statewide training workshops on
25 domestic violence for local centers, law enforcement, and other
26 service providers designed to enhance service programs. The
27 workshops shall be planned in conjunction with practitioners and
28 experts in the field of domestic violence prevention. The workshops
29 shall include a curriculum component on lesbian, gay, bisexual,
30 and transgender specific domestic abuse.

31 (e) The OES shall develop and disseminate throughout the state
32 information and materials concerning domestic violence. The OES
33 shall also establish a resource center for the collection, retention,
34 and distribution of educational materials related to domestic
35 violence. The OES may utilize and contract with existing domestic
36 violence technical assistance centers in this state in complying
37 with the requirements of this subdivision.

38 (f) The funding process for distributing grant awards to domestic
39 violence shelter service providers (DVSSPs) shall be administered
40 by the OES as follows:

1 (1) The OES shall establish each of the following:

2 (A) The process and standards for determining whether to grant,
3 renew, or deny funding to any DVSSP applying or reapplying for
4 funding under the terms of the program.

5 (B) For DVSSPs applying for grants under the request for
6 proposal process described in paragraph (2), a system for grading
7 grant applications in relation to the standards established pursuant
8 to subparagraph (A), and an appeal process for applications that
9 are denied. A description of this grading system and appeal process
10 shall be provided to all DVSSPs as part of the application required
11 under the RFP process.

12 (C) For DVSSPs reapplying for funding under the request for
13 application process described in paragraph (4), a system for grading
14 the performance of DVSSPs in relation to the standards established
15 pursuant to subparagraph (A), and an appeal process for decisions
16 to deny or reduce funding. A description of this grading system
17 and appeal process shall be provided to all DVSSPs receiving
18 grants under this program.

19 (2) Grants for shelters that were not funded in the previous cycle
20 shall be awarded as a result of a competitive request for proposal
21 (RFP) process. The RFP process shall comply with all applicable
22 state and federal statutes for domestic violence shelter funding;
23 and, to the extent possible, the response to the RFP shall not exceed
24 25 narrative pages, excluding attachments.

25 (3) Grants shall be awarded to DVSSPs that propose to maintain
26 shelters or services previously granted funding pursuant to this
27 section, to expand existing services or create new services, or to
28 establish new domestic violence shelters in underserved or
29 unserved areas. Each grant shall be awarded for a three-year term.

30 (4) DVSSPs reapplying for grants shall not be subject to a
31 competitive grant process, but shall be subject to a request for
32 application (RFA) process. The RFA process shall consist in part
33 of an assessment of the past performance history of the DVSSP
34 in relation to the standards established pursuant to paragraph (1).
35 The RFA process shall comply with all applicable state and federal
36 statutes for domestic violence center funding; and, to the extent
37 possible, the response to the RFA shall not exceed 10 narrative
38 pages, excluding attachments.

39 (5) ~~Any~~ A DVSSP funded through this program in the previous
40 grant cycle, including ~~any~~ a DVSSP funded by Chapter 707 of the

1 Statutes of 2001, shall be funded upon reapplication, unless,
2 pursuant to the assessment required under the RFA process, its
3 past performance history fails to meet the standards established
4 by the OES pursuant to paragraph (1).

5 (6) The OES shall conduct a minimum of one site visit every
6 three years for each DVSSP funded pursuant to this subdivision.
7 The purpose of the site visit shall be to conduct a performance
8 assessment of, and provide subsequent technical assistance for,
9 each shelter visited. The performance assessment shall include,
10 but need not be limited to, a review of all of the following:

11 (A) Progress in meeting program goals and objectives.

12 (B) Agency organization and facilities.

13 (C) Personnel policies, files, and training.

14 (D) Recordkeeping, budgeting, and expenditures.

15 (E) Documentation, data collection, and client confidentiality.

16 (7) After each site visit conducted pursuant to paragraph (6),
17 the OES shall provide a written report to the DVSSP summarizing
18 the performance of the DVSSP, ~~any~~ deficiencies noted, ~~any~~
19 corrective action needed, and a deadline for corrective action to
20 be completed. The OES shall also develop a corrective action plan
21 for verifying the completion of ~~any~~ corrective action required. The
22 OES shall submit its written report to the DVSSP no more than
23 60 days after the site visit. No grant under the RFA process shall
24 be denied if the DVSSP has not received a site visit during the
25 previous three years, unless the OES is aware of criminal violations
26 relative to the administration of grant funding.

27 (8) If an agency receives funding from both the Comprehensive
28 Statewide Domestic Violence Program in the Office of Emergency
29 Services and the Maternal and Child Health Branch of the State
30 Department of Public Health during any grant cycle, the
31 Comprehensive Statewide Domestic Violence Program and the
32 Maternal and Child Health Branch shall, to the extent feasible,
33 coordinate agency site visits and share performance assessment
34 data with the goal of improving efficiency, eliminating duplication,
35 and reducing administrative costs.

36 (9) DVSSPs receiving written reports of deficiencies or orders
37 for corrective action after a site visit shall be given no less than
38 six months' time to take corrective action before the deficiencies
39 or failure to correct may be considered in the next RFA process.
40 However, the OES shall have the discretion to reduce the time to

1 take corrective action in cases where the deficiencies present a
2 significant health or safety risk or when other severe circumstances
3 are found to exist. If corrective action is deemed necessary, and a
4 DVSSP fails to comply, or if other deficiencies exist that, in the
5 judgment of the OES, cannot be corrected, the OES shall
6 determine, using its grading system, whether continued funding
7 for the DVSSP should be reduced or denied altogether. If a DVSSP
8 has been determined to be deficient, the OES may, at any point
9 during the DVSSP's funding cycle following the expiration of the
10 period for corrective action, deny or reduce ~~any~~ further funding.

11 (10) If a DVSSP applies or reapplies for funding pursuant to
12 this section and that funding is denied or reduced, the decision to
13 deny or reduce funding shall be provided in writing to the DVSSP,
14 along with a written explanation of the reasons for the reduction
15 or denial made in accordance with the grading system for the RFP
16 or RFA process. Except as otherwise provided, ~~any~~ *an* appeal of
17 the decision to deny or reduce funding shall be made in accordance
18 with the appeal process established by the OES. The appeal process
19 shall allow a DVSSP a minimum of 30 days to appeal after a
20 decision to deny or reduce funding. All pending appeals shall be
21 resolved before final funding decisions are reached.

22 (11) It is the intent of the Legislature that priority for additional
23 funds that become available shall be given to currently funded,
24 new, or previously unfunded DVSSPs for expansion of services.
25 However, the OES may determine when expansion is needed to
26 accommodate underserved or unserved areas. If supplemental
27 funding is unavailable, the OES shall have the authority to lower
28 the base level of grants to all currently funded DVSSPs in order
29 to provide funding for currently funded, new, or previously
30 unfunded DVSSPs that will provide services in underserved or
31 unserved areas. However, to the extent reasonable, funding
32 reductions shall be reduced proportionately among all currently
33 funded DVSSPs. After the amount of funding reductions has been
34 determined, DVSSPs that are currently funded and those applying
35 for funding shall be notified of changes in the available level of
36 funding prior to the next application process. Funding reductions
37 made under this paragraph shall not be subject to appeal.

38 (12) Notwithstanding any other provision of this section, OES
39 may reduce funding to a DVSSP funded pursuant to this section

1 if federal funding support is reduced. Funding reductions as a result
2 of a reduction in federal funding shall not be subject to appeal.

3 (13) Nothing in this section shall be construed to supersede any
4 function or duty required by federal acts, rules, regulations, or
5 guidelines for the distribution of federal grants.

6 (14) As a condition of receiving funding pursuant to this section,
7 DVSSPs shall do all of the following:

8 (A) Provide matching funds or in-kind contributions equivalent
9 to not less than 10 percent of the grant they would receive. The
10 matching funds or in-kind contributions may come from other
11 governmental or private sources.

12 (B) Ensure that appropriate staff and volunteers having client
13 contact meet the definition of “domestic violence counselor” as
14 specified in subdivision (a) of Section 1037.1 of the Evidence
15 Code. The minimum training specified in paragraph (2) of
16 subdivision (a) of Section 1037.1 of the Evidence Code shall be
17 provided to those staff and volunteers who do not meet the
18 requirements of paragraph (1) of subdivision (a) of Section 1037.1
19 of the Evidence Code.

20 (15) The following definitions shall apply for purposes of this
21 subdivision:

22 (A) “Domestic violence” means the infliction or threat of
23 physical harm against past or present adult or adolescent ~~female~~
24 intimate partners, including physical, sexual, and psychological
25 abuse against the ~~woman~~ *partner*, and is a part of a pattern of
26 assaultive, coercive, and controlling behaviors directed at achieving
27 compliance from or control over that ~~woman~~ *person*.

28 (B) “Domestic violence shelter service provider” or “DVSSP”
29 means a victim services provider that operates an established
30 system of services providing safe and confidential emergency
31 housing on a 24-hour basis for victims of domestic violence and
32 their children, including, but not limited to, hotel or motel
33 arrangements, haven, and safe houses.

34 (C) “Emergency shelter” means a confidential or safe location
35 that provides emergency housing on a 24-hour basis for victims
36 of domestic violence and their children.

37 (g) The OES may hire the support staff and utilize all resources
38 necessary to carry out the purposes of this section. The OES shall
39 not utilize more than 10 percent of ~~any~~ funds appropriated for the

1 purpose of the program established by this section for the
2 administration of that program.

3 ~~SECTION 1. It is the intent of the Legislature to enact~~
4 ~~legislation that would address the issues raised in Woods v. Horton~~
5 ~~(2008) 167 Cal.App.4th 658 and ensure that shelters providing~~
6 ~~services to victims of domestic violence continue to receive~~
7 ~~appropriate funding pursuant to Section 124250 of the Health and~~
8 ~~Safety Code.~~

O